

Maine CDC WIC Nutrition Program Vendor Agreement

This Agreement is made between _____, Owner(s) of _____ located at _____, (hereinafter Vendor) and the State of Maine Department of Health and Human Services Maine CDC WIC Nutrition Program (hereinafter WIC Program). The Vendor and the WIC Program mutually agree to the terms and conditions contained in this Agreement.

Assigned Vendor Number: [_____] Assigned Vendor Peer Group: **Peer Group**_____

The period of this Agreement is from _____ to _____.

The Vendor agrees to the following general requirements during the term of the Agreement and shall:

1. General Requirements:

- 1.1 Maintain compliance with this WIC Vendor Agreement; Federal and State statutes; Title 7 of the Code of Federal Regulations Part 246; 10-144 Chapter 286 Maine WIC Program Rules; and Vendor Management Policies governing the WIC Program throughout the Vendor Agreement, including any changes made during the agreement period. All Vendor Management Policies are available for review at www.wicforme.com. The Vendor will be notified of any changes to the WIC Program in writing by methods including, but not limited to newsletters, special bulletins, and amendment to agreements, prior to the changes taking effect. Vendor Management Policies are reviewed by the WIC Program at least annually. Vendors are directed to the WIC Program website for the most recent version of the Vendor Management Policies.
- 1.2 Not only meet vendor selection criteria at the time of the initiation of the Agreement, but maintain compliance with vendor selection criteria throughout the agreement period, including any changes to the criteria. Using the current vendor selection criteria, the WIC Program may reassess the Vendor at any time during the agreement period.
- 1.3 Maintain inventory records used for federal tax reporting purposes; maintain records in accordance with generally accepted accounting procedures; and assure that records reflecting justification and receipt of WIC funds, food instruments/cash-value vouchers/eWIC cards (hereinafter FIs), and all other program-related records of the Vendor are available for inspection or audit by federal, state or other authorized personnel for a period of at least three years.
- 1.4 Cooperate with federal and state WIC Program and other authorized personnel during announced and unannounced on-site vendor reviews, inspections and audits.
- 1.5 Provide the WIC Program with purchase invoices from wholesalers and receipts for WIC-approved foods purchased from other retailers, when requested. Invoices and receipts for infant

formula shall show the authorized supplier and the specific type of formula or they shall not be considered an acceptable record of inventory nor justification against a Vendor claim.

- 1.6 Submit a current price list within the timeframes given and in the format requested by the WIC Program.
- 1.7 Have at least one authorized representative attend all required vendor trainings. Annual training may be provided in a variety of formats, including newsletters, videos, and interactive training. The Vendor shall inform and train all employees who have cashier duties, and other staff on program requirements, and shall maintain documentation of the training of staff as described in Vendor Management Policy VM-2: Vendor Training.
- 1.8 Accept FIs only from participants in the WIC Program, their authorized representatives, or proxies (hereinafter participants).
- 1.9 Submit FIs for redemption in accordance with the procedures and other requirements of Vendor Management Policy VM-12: Vendor Operations.
- 1.10 Accept WIC Program adjustments to the purchase price on FIs submitted by the Vendor for redemption to ensure compliance with Maximum Allowable Reimbursement Levels set by the WIC Program.
- 1.11 Upon presentation of a final vendor claim for vendor overcharges or other vendor errors, the Vendor shall pay the claim within 30 days unless an installation payment plan is agreed to by the WIC Program. Vendor claim procedures are more fully described in Vendor Management Policy VM-14: Vendor Claims.
- 1.12 Comply with the nondiscrimination provisions of Title VI of the Civil Rights Act as amended; 7 CFR Parts 15, 15A and 15B; and the Maine Human Rights Act regarding places of public accommodation (5 MRS §4591). These laws collectively prohibit discrimination against any person because of race, religion, color, national origin, ancestry, physical or mental disability/handicap, sexual orientation or sex.

2. Operational Requirements: The Vendor agrees to the following operational requirements during the term of the Agreement and shall:

- 2.1 Provide WIC-approved foods at prices that are competitive. WIC-approved foods are defined as those foods listed in the Booklet for Vendors, the Participant Folder, and the Approved Product List as meeting the nutritional requirements for the specific category(ies) of food(s) and are approved by the state WIC Program for being provided to WIC participants.
- 2.2 Maintain the minimum stock of WIC-approved foods as defined in the WIC Vendor Minimum Inventory Requirements (current list attached).
- 2.3 Purchase infant formula for sale to WIC participants from sources on the WIC Program authorized list of infant formula wholesalers, distributors and retailers (current list attached) or manufacturers registered with the U.S Food and Drug Administration. Provide WIC participants only formula which is purchased in this way and is specified on the participant's FI.
- 2.4 Meet minimum redemption requirements of no less than an average of 15 WIC FIs or an average of \$200.00 in value of WIC food benefits redeemed per month averaged over the previous 12 months.

- 2.5 Never transact WIC FIs outside of the authorized store. Vendors offering delivery services may deliver the foods purchased with WIC FIs after the transaction has been completed in the store.
- 2.6 Never publicly identify, call unnecessary attention to, or allow discourteous treatment of a WIC participant. Treat WIC participants with the same courtesies offered to other customers
- 2.7 Keep all information regarding WIC participants confidential.
- 2.8 Never refuse to accept a valid WIC FI from a WIC participant.
- 2.9 Only redeem a WIC FI for the WIC-approved food items specifically allowed on that FI. Never allow purchase of a WIC-approved food item that is not specified on the FI presented by the WIC participant. Never allow purchase of a food that is not WIC-approved with a WIC FI. Never offer cash, credit, "rain checks", or non-food items in exchange for a WIC FI.
- 2.10 Only accept FIs at the time of the actual purchase and never issue "rain checks" or credit slips to WIC participants.
- 2.11 If the Vendor is a WIC pharmacy that has not been also authorized as a WIC food vendor, only accept WIC FIs for authorized infant formula and/or WIC-eligible medical foods.
- 2.12 If the Vendor is a WIC pharmacy or combination food store/pharmacy, ensure that WIC participants can receive any authorized prescription infant formula and/or WIC-eligible medical foods within 72 hours of a request from a participant or the WIC Program.
- 2.13 If the Vendor is a WIC food vendor that has not been also authorized as a WIC pharmacy, never accept FIs for authorized prescription infant formula and/or WIC-eligible medical foods.
- 2.14 Be willing to "break a case" if it is necessary to provide the total number of units of WIC-approved food items specified on a FI, particularly in reference to cans/bottles of infant formula.
- 2.15 Ensure that prices charged to WIC participants for WIC-approved foods are equal to or less than prices charged to non-WIC customers and that prices for WIC-approved foods are clearly posted on shelves or food items so that all customers can see them.
- 2.16 Allow WIC participants to take advantage of manufacturer or vendor promotions that provide WIC-approved foods free of charge. The Vendor shall also accept manufacturers' "cents off coupons" from WIC participants for WIC-approved foods being purchased with FIs and deduct the value of the coupon from the cost of the WIC-approved foods being purchased.
- 2.17 Allow WIC participants to purchase less than the total amount of WIC-approved food specified on a WIC FI, if desired.
- 2.18 Never charge the WIC Program for WIC-approved foods not actually purchased and received by the WIC participant.
- 2.19 Never charge the WIC Program for WIC-approved foods provided in excess of those quantities listed on the WIC FIs.
- 2.20 Never price WIC transactions by FI type. Each FI must have a purchase price entered at the time of the transaction for only the WIC-approved foods allowed on the FI that are actually purchased and received during that transaction

- 2.21 Never request or accept cash payment for the quantities of foods specified on FIs; except that participants may pay, and Vendor may accept, money for the difference when the purchase of authorized fruits and vegetables exceeds the value of a cash-value fruit and vegetable voucher.
- 2.22 Never collect sales tax on WIC food purchases.
- 2.23 Collect Maine Bottle Bill deposits from the WIC participant and not from the WIC Program.
- 2.24 Collect any mandated bag fees from the WIC customer and not from the WIC Program.
- 2.25 Allow the exchange of a WIC-approved food purchased with a WIC FI for an identical item only when the original item is defective, spoiled, or has exceeded its expiration date.
- 2.26 Report to the WIC Program if a WIC participant attempts to return foods purchased with WIC FIs in exchange for cash or credit.
- 2.27 Report to the WIC Program any irregularities in the use of WIC FIs by WIC participants.
- 2.28 Never attempt to seek restitution from participants for redeemed FIs that were rejected by the Program's bank and/or for cash refunds requested by the WIC Program.
- 2.29 Direct questions concerning payment only to the WIC Program. Do not contact WIC participants concerning this or any other problem area.
- 2.30 Never provide incentive items or other free merchandise to WIC participants unless the Vendor provides the same items to non-WIC customers as well.

3. Vendor Compliance: The Vendor agrees to the following compliance requirements during the term of this Agreement:

- 3.1 Cooperate with the WIC Program which monitors vendors for compliance with program requirements. A description of monitoring methods can be found in Vendor Management Policies VM-4: Routine Monitoring and VM-5: Compliance Investigations.
- 3.2 Agrees to the sanction, disqualification, and termination system detailed in Vendor Management Policy VM-6: Vendor Sanction System (attached).
- 3.3 Understands that the WIC Program may initiate administrative action to disqualify or assess a civil money penalty, in lieu of disqualification, against a vendor for non-compliance on the basis of an incident of violation or a pattern of violations.
- 3.4 Understands that the WIC Program will notify the Vendor in writing when an investigation reveals an initial incidence of violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented. The two exceptions to this which would not require notification are:
 - 3.4.1 If the WIC Program determines, in its discretion, that notifying the Vendor would compromise an investigation, or
 - 3.4.2 The initial incident is for claiming reimbursement for sale of a WIC-approved item which exceeds the Vendor's documented inventory of that specific item for a specific period of time.
- 3.5 Understands that the WIC Program reports vendor sanctions to the United States Department of Agriculture Food and Nutrition Service. Disqualification of a vendor from the WIC Program

for Class I or Class II violations described in Vendor Management Policy VM-6 may result in vendor disqualification from the Supplemental Nutrition Assistance Program (SNAP). These “reciprocal” food program disqualifications may not be subject to administrative or judicial review under SNAP.

- 3.6 Understands that the Vendor will be held liable for the actions of all owners, officers, managers, agents, employees and personnel, paid or unpaid, who may be involved in WIC transactions at the Vendor’s store or pharmacy.
 - 3.7 Understands that a vendor who commits fraud or abuse in the WIC Program is liable to prosecution under applicable federal, state and local laws. Those who have willfully misapplied, stolen, or fraudulently obtained program funds will be subject to a fine of not more than \$25,000 or imprisonment for not more than 5 years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one year or both.
4. The Vendor agrees to comply with WIC Program requirements for transacting FIs as described in Vendor Management Policy VM-12: Vendor Operations. The Vendor agrees to the requirements for transaction of paper FIs including, but not limited to:
- 4.1 Request that the WIC participant present their WIC ID Folder.
 - 4.2 Observe that there are no visible alterations apparent on the FI.
 - 4.3 Never accept a FI outside of the “to use” dates (before the “first day to use” or after the “last day to use” date).
 - 4.4 Request that the WIC participant write the actual cost of the WIC-approved foods purchased in the space provided on the face of the FI prior to signing the FI. Exception: a computer may print the actual cost of the WIC foods on the FI if an automated system exists in the store.
 - 4.5 Never accept a FI without the sale price entered in the amount field of the FI.
 - 4.6 Request that the WIC participant affix his/her signature in the lower right hand corner of the FI after he/she has written in the price.
 - 4.7 Observe the WIC participant as she/he signs the FI, and be sure the signature on the FI matches one of the three signatures on the WIC ID Folder.
 - 4.8 Compare the signature on the FI with the signature(s) on the ID Folder; if the signature on the FI does not match either of the signatures on the ID Folder, do not accept the FI.
 - 4.9 Never demand identification other than the WIC ID Folder from a WIC participant.
 - 4.10 In cases where a WIC participant signs with an “X”, witness the transaction by signing beneath the “X” mark.
 - 4.11 Always witness the customer signing the FI.
 - 4.12 Provide the WIC participant with an itemized receipt that indicates the cost of each food item purchased with the FI.
5. The Vendor agrees to the following additional requirements for the transaction of eWIC cards:
- 5.1 Only allow the WIC participant to purchase food items with Universal Product Codes (hereinafter UPC) that correspond to the eWIC Approved Product List (hereinafter APL), and

are authorized for purchase based upon the available balance of WIC-approved foods prescribed on the participant's eWIC card.

- 5.2 Scan or manually enter the actual UPC that is affixed to the item actually being purchased by the WIC participant.
- 5.3 Never scan any UPC that is not affixed to the item being purchased by the WIC participant, or any UPC as a substitute or replacement for the item being purchased.
- 5.4 Never require the WIC participant to provide any other form of identification besides entering the pin number associated with the eWIC card.
6. This Agreement does not constitute a license or property interest.
7. This Agreement is non-transferable. Any transfer of ownership or sale of the business by the Vendor shall render the Agreement and the vendor stamp null and void. The Agreement also shall be null and void if the Vendor ceases operations or leases the business.
8. This Agreement is in effect for the time period stated only. An application must be submitted for consideration upon expiration of the current Agreement period. The Vendor's renewal application will be subject to the WIC Program's vendor selection criteria in effect at the time of the reapplication.
9. This Agreement is subject to change in accordance with any changes in federal and state requirements governing the WIC Program.
10. Both parties to this Agreement represent that there is no conflict of interest between the WIC Program, the local WIC agencies and the Vendor.
11. This Agreement may be terminated for cause by the WIC Program or the Vendor, with fifteen (15) days' advance written notice. Reasons for termination of this agreement for cause shall include:
 - 11.1 Failure to maintain compliance with vendor selection criteria, excluding the minimum stocking requirement which is addressed in 11.2 below, including changes to selection criteria made during the Vendor Agreement period.
 - 11.2 Failure to stock any WIC-approved items in three or more of the WIC-approved food categories.
 - 11.3 Providing false information in the vendor application or price survey.
 - 11.4 A change of the store location by more than a short distance as determined by State Agency staff.
 - 11.5 A change in ownership of the Vendor by 50% or more.
 - 11.6 Cessation of operations of the authorized Vendor location.
 - 11.7 The State Agency identifies a conflict of interest, as defined Policy VM-13.
 - 11.8 Failure to attend mandatory vendor training.
 - 11.9 Nonpayment of a claim against the Vendor by the WIC Program as described in policy VM-14.
 - 11.10 Failure to allow monitoring and inspection of the store premises and procedures to ensure compliance with the agreement and state and federal WIC Program rules, regulations, and policies. Monitoring and inspection includes, but is not limited to, allowance of access to WIC FIs negotiated the day of monitoring, access to shelf price records and any other vendor

records pertinent to the purchase of WIC supplemental food items, including the documentation of the source of infant formula.

- 11.11 Failure to maintain inventory records used for federal tax reporting purposes; to maintain records in accordance with generally accepted accounting procedures; and to assure that records reflecting justification and receipt of WIC funds, FIs and all other program-related records of the Vendor are available for inspection or audit by federal, state or other authorized personnel.
 - 11.12 Failure to cooperate with federal and state WIC Program and other authorized personnel during announced and unannounced on-site vendor reviews, inspections and audits.
 - 11.13 Failure to provide the WIC Program with purchase invoices from wholesalers or receipts for WIC-approved products purchased from other retailers, when requested.
 - 11.14 Failure to meet minimum redemption requirements (no less than an average of 15 WIC FIs/CVV's or an average of \$200.00 in value of WIC FIs/CVV's redeemed per month averaged over the previous 12 months). The WIC Program will consider an application prior to the end of the termination period if circumstances that caused the failure to meet minimum redemption requirements have changed.
 - 11.15 The Vendor's prices have increased over the prices submitted in the Vendor's application or the most recent price list submitted, and such increase is not due to the inflation rate and/or other legitimate factors. If, within the fifteen (15) days, the Vendor can demonstrate that the prices have been lowered so as to not exceed the Maximum Allowable Reimbursement established for the Vendor's assigned peer group, termination will not occur.
 - 11.16 During the course of routine monitoring the State agency determines that the Vendor derives more than 50% of their sales volume from WIC FIs.
 - 11.17 Failure to participate in the transition of the WIC Program FIs from paper instruments to eWIC cards.
 - 11.18 Purchasing infant formula from any supplier not identified on the State Agency's list of state-licensed infant formula wholesalers, distributors, and retailers as listed in Appendix VM-1-B; or manufacturers registered with the U.S. Food and Drug Administration.
 - 11.19 The Vendor is disqualified for any reason.
12. The Maine DHHS Administrative Review Regulations (10-144 CMR Ch.1) are available upon request and notice about applicable appeal rights will be provided to Vendor at the time of notice of an adverse action. The Vendor agrees to the following regarding administrative and judicial appeals:
- 12.1 Administrative appeals may be had by a Vendor for disqualification from the WIC Program during the agreement period; termination of an agreement for cause; a decision to assign an authorized Vendor to a specific peer group; denial of authorization/renewal of authorization; or imposition of a fine or civil money penalty in lieu of disqualification;
 - 12.2 No appeals may be had from decisions regarding: validity or appropriateness of vendor authorization criteria, competitive price criteria, or vendor peer group criteria; participant access criteria or participant access determinations; the state's determination whether to notify a vendor in writing after an investigation reveals an initial violation for which a pattern of violations must be established to impose a sanction; from a claim against a vendor; for the

WIC Program's decision to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from its authorized list from which a vendor can purchase infant formula; for reciprocal disqualification of a vendor based on a disqualification from SNAP; or for expiration of the Vendor Agreement. The Vendor agrees that these decisions of the WIC program are binding on the parties and not subject to further appeal or review in accordance with 7 CFR §§246.12 and 246.18.

13. Neither the Vendor nor the WIC Program has an obligation to renew the Vendor Agreement.
14. The Vendor will receive an application for renewal of authorization at least thirty (30) days before the Agreement expires, including notification that failure to return the renewal application prior to the date of expiration of the current Agreement will result in loss of authorization.
15. The WIC Program agrees to:
 - 15.1 Inform the Vendor of federal or state changes in WIC program requirements in writing, by newsletter, mailings, or other means before the changes become effective.
 - 15.2 Assign vendors to Peer Groups. Assess and reassign a vendor to a peer group as changes affect original peer group assignment. Provide appeal rights to a vendor who disputes the WIC Program's application of WIC Program peer group criteria used to designate the Vendor's peer group assignment.
 - 15.3 Establish Maximum Allowable Reimbursement Levels for food items based upon the price surveys submitted by vendors, or after implementation of eWIC, based upon the actual prices charged by vendors in the same Peer Group for food items.
 - 15.4 Provide the Vendor access to information and on maintaining compliance with WIC Program requirements.
 - 15.5 Provide a WIC vendor stamp for use in redeeming WIC FIs.
 - 15.6 Transfer funds to the Vendor's account for valid FIs appropriately transacted within 60 days of initial deposit of the FI to the Vendor's bank.
 - 15.7 Manage the WIC Program in accordance with all federal and state requirements.

___ Check here if you require the services of an interpreter. It is your responsibility as a vendor to indicate the need for interpretive services.

I certify that as the owner, operator, manager, or other person(s) authorized to sign the WIC Vendor Agreement and, prior to signing this agreement, I have carefully read the entire Agreement. I understand how the Maine CDC WIC Nutrition Program works and all expectations of me set forth by the Maine CDC WIC Nutrition Program. I understand that compliance with all policies, procedures, and regulations of the Maine CDC WIC Nutrition Program is my responsibility.

I understand that it is my responsibility to obtain interpreter services, if needed, to help me understand the terms of this Agreement and to comply with the policies, procedures, and regulations of the Maine CDC WIC Nutrition Program. I understand that it is my responsibility to bring an interpreter to mandatory training events, to provide an interpreter for in-store visits and telephone communications with federal or state WIC Program staff, and to obtain interpretation /translation for any written communications from the WIC Program.

I acknowledge that I have received (check the box that applies):

- ☐ Minimum Inventory Requirement
- ☐ The Maine CDC WIC Nutrition Program authorized list of infant formula wholesalers, distributors and retailers or manufacturers
- ☐ Sample Training Log
- ☐ Vendor Management Policy VM-6: Vendor Sanction System

_____	_____	_____
Authorized Vendor Print	Authorized Vendor Signature	Date
_____	_____	_____
WIC Representative Print	WIC Representative Signature	Date